

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL L. AVERY,

Plaintiff,

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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Case No. 11-14937  
Honorable Patrick J. Duggan

**OPINION AND ORDER**

On November 9, 2011, Plaintiff filed this lawsuit challenging a final decision of the Commissioner denying Plaintiff's application for social security benefits. On the same date, this Court referred the lawsuit to Magistrate Judge Mark A. Randon for all pretrial matters proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation ("R&R") on all dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 3.) The parties subsequently filed cross-motions for summary judgment. On August 22, 2012, Magistrate Judge Randon issued his R&R recommending that this Court grant Defendant's motion and deny Plaintiff's motion. (ECF No. 13.)

In his R&R, Magistrate Judge Randon concludes that there was substantial evidence in the record to support the Administrative Law Judge's determination that Plaintiff is not disabled. At the conclusion of the R&R, Magistrate Judge Randon advises the parties that they may object to and seek review of the R&R within fourteen days of

service upon them. (*Id.* at 19.) He further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.*) Although Plaintiff’s counsel requested and was granted an extension of time to file objections until September 12, 2012, neither Plaintiff nor Defendant filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Randon. The Court therefore adopts Magistrate Judge Randon’s August 22, 2012 Report and Recommendation.

Accordingly,

**IT IS ORDERED**, that Plaintiff’s motion for summary judgment is **DENIED**;

**IT IS FURTHER ORDERED**, that Defendant’s motion for summary judgment is **GRANTED**.

Dated: October 11, 2012

s/PATRICK J. DUGGAN  
UNITED STATES DISTRICT JUDGE

Copies to:  
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AUSA Theresa M. Urbanic  
Magistrate Judge Mark A. Randon